

Remarks

Claims 1-30 are present in the application. Claims 14-30 have been withdrawn as being directed to a non-elected species. Claims 22 and 23 have been amended to correct obvious matters of form. Claim 1 has been amended In view of the 35 U.S.C. 112, second paragraph rejection. Claims 6 and 7 have been cancelled. Applicants respectfully request that this amendment be entered after final in that Applicants believe the amendment will place the application in condition for allowance and does not present new issues requiring a further search by the examiner.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph. Applicants respectfully request reconsideration in view of the amendment to claim 1. Applicants have amended claim 1 to more clearly indicate that fibers A and fibers B are present in a weight ratio of one to the other and are organized such that the fibrous matrix is provided with properties useful in repair and/or regeneration of mammalian tissue. Applicants respectfully submit that no new matter is introduced via the amendment and request that the rejection under under 35 U.S.C. 112, second paragraph be withdrawn.

Claims 1-13 are rejected under 35 U.S.C. 102(b) over Dorigatti et al (US 5,520,916). Applicants respectfully traverse.

Claims 1-13 are directed to an implantable device that comprises a fibrous matrix comprising first fibers A and second fibers B, wherein fibers A and B are selected from a biodegradable polymer selected from the group consisting of aliphatic polyesters, poly(amino acids), copoly(ether-esters), polyalkylene oxalates, polyamides, poly(iminocarbonates), polyorthoesters, polyoxaesters, polyamidoesters, poly(anhydrides) and polyphosphazenes. Fibers A and B must be selected from polymers as claimed. Fibers A must biodegrade faster than fibers B. Fibers A and B are present at a weight ratio of one to the other and are organized such that the fibrous matrix is provided with properties useful in repair and/or regeneration of mammalian tissue.

Dorigatti discloses a fabric material that is useful in surgery for the guided regeneration of tissue. The fabric comprises a matrix having fibers made from a hyaluronic acid ester (HAE) embedded therein. Dorigatti discloses at Col. 3, lines 1-20 that HAE fibers “may” be mixed with natural polymers as noted therein. At col. 4,

lines 5-10 Dorigatti discloses that the non-woven fabrics are composed of HAE fibers alone, or in mixtures with other HAE fibers, or in mixture with other polymers. The Examples 27-31 discloses non-woven fabrics using only HAE fibers, so that there are no specific examples of fabrics that contain "other " polymers. Applicants respectfully submit that it is clear from Dorigatti that HAE fibers are required for non-woven fabrics disclosed therein and that the use of other polymers are "optional".

As to the position in the office action that the non-woven fabrics of Dorigatti are the same as the implantable devices as claimed by Applicants, and thus must assert the same properties, Applicants respectfully disagree. As noted, there are no examples of Applicants invention in Dorigatti, only examples utilizing HAE fibers alone. Furthermore, Dorigatti does not disclose or require that there be two fibers A and B, other than the HAE fibers. Dorigatti further fails to require that, if in fact Fibers A and B are present, that Fiber A biodegrades faster than Fiber B. While Dorigatti does disclose that the HAE fibers and other fibers may be present from 1-100 percent, there is no disclosure that two different fibers other than HAE fibers are present in the weight ratios as claimed. Applicants respectfully submit that the standard for anticipation is one of strict identity. Applicants respectfully submit that Dorigatti must disclose every element of Applicants' claims, either literally or inherently. As noted, Applicants respectfully submit that Dorigatti fails to anticipate any pending claims and respectfully request that the rejection under 35 U.S.C. 102(b) over Dorigatti be withdrawn.

Based on all of the foregoing, Applicants respectfully submit that claims 1-13 are patentable both under 35 U.S.C. 112, second paragraph and 35 U.S.C. 102 over Dorigatti.

For clarification, Applicants note that claims 14-30 have been indicated as withdrawn from consideration but would be considered upon a finding of allowance. Applicants respectfully submit that claims 14-30 are patentable and earnestly request a notice of allowance with respect to claims 1-30.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'William K. Wissing', with a long horizontal flourish extending to the right.

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